
OLR Bill Analysis

sHB 6631

AN ACT CONCERNING THE ISSUANCE OF A REPLACEMENT BIRTH CERTIFICATE PURSUANT TO A GESTATIONAL AGREEMENT.

SUMMARY:

Current law requires that each birth certificate contain the birth mother's name, but does not define "birth mother" for this purpose. This bill defines the term as a woman who, pursuant to a gestational agreement with the intended parent or parents, carries a child to birth who is not biologically or genetically related to her.

The bill specifies that a birth mother's name must appear on each original, but not replacement, birth certificate when a birth arises out of a gestational agreement. It thus requires the Department of Public Health (DPH) to name the intended parents as the child's parents on the replacement certificate. By law, DPH must seal the original birth certificate and registrars of vital statistics must provide a replacement copy to an eligible party who requests it.

The bill also changes the required timing of the creation of replacement birth certificates for births that are subject to gestational agreements, and specifies the nature of the court order that requires DPH to create such a certificate. Current law requires DPH to create replacement certificates according to a court order within 45 days after (1) receiving the order or (2) the child's birth, whichever is later. The bill instead requires DPH, upon receiving a certified copy of a court order that approves a gestational agreement and issues an order of parentage under the agreement, to create the replacement certificate according to the order.

Under the bill, a "gestational agreement" is a written agreement for assisted reproduction between a woman who agrees to carry a child to birth and the intended parent or parents. The agreement must (1)

name the parties to it and indicate their obligations under it; (2) be signed by the parties and their spouses, if any; (3) be witnessed by at least two disinterested adults; and (4) be notarized. The bill applies this definition to the statutes concerning vital statistics.

Existing law, unchanged by the bill, requires birth certificates to contain whatever information DPH requires (CGS § 7-48).

The bill also makes technical changes.

EFFECTIVE DATE: October 1, 2011

BACKGROUND

Related Case

Raftopol v. Ramey (299 Conn. 681 (2011)) involved two plaintiffs (the intended parents) who entered a written gestational agreement with a gestational carrier. Prior to the birth of two children, the plaintiffs brought a declaratory judgment action requesting that the court order DPH to issue a replacement birth certificate reflecting the plaintiffs, and not the carrier, as the children's parents. After the Superior Court found the gestational agreement valid and ordered DPH to issue a replacement birth certificate, DPH appealed.

In *Raftopol*, the Connecticut Supreme Court concluded that CGS § 7-48a (the statute that this bill amends) permits a non-biological intended parent who is not the child's adoptive parent to become a legal parent of that child through a valid gestational agreement. The court ruled that a court order under this statute entitles the intended parents to be named as parents on the replacement birth certificate, regardless of their biological relationship to the children.

The court noted certain provisions of the statute that it found ambiguous. According to the court, CGS § 7-48a does not (1) define the terms "birth mother" or "gestational agreement;" (2) address the nature and scope of the court order requiring DPH to create a replacement birth certificate; or (3) describe who may qualify and how, as a parent on a replacement certificate.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute

Yea 44 Nay 0 (04/12/2011)